

Section 4

Workers Compensation Fraud and Abuse

FRAUD & ABUSE SECTION

The Workers Compensation Fraud and Abuse Investigation unit was established in 1994. The unit is staffed with three investigators and an Administrative Specialist, with an Assistant Attorney General supervising the unit. The unit's responsibilities include identifying potential fraud and abuse in the workers compensation arena by investigating allegations, referred to or developed by the unit, of violations of the workers compensation regulations and laws as stated in K.S.A. 44-5,120 and K.S.A. 44-5,125. Provable violations may be taken before a hearing officer in a civil action or may be presented to local county or district attorneys for criminal prosecution. Since the inception of the unit, it has investigated more than 1,578 alleged fraudulent or abusive acts.

In the 2004 fiscal year, 304 cases were initiated. Twenty-six cases were referred for civil action. Collection for fines and assessments totaled \$80,595.05 for fiscal year 2004.

The objectives of the unit are to: assure that the injured worker receives timely required medical treatment and benefits; protect the employer, carrier and medical provider from fraudulent acts; assure that the businesses within the state are compliant by maintaining worker compensation insurance coverage; and assure that the division receives required documents in a timely manner.

Referrals

Information Received by the Unit

The Fraud and Abuse unit receives information on alleged fraud and other violations of the workers compensation laws by phone, fax, e-mail (including through our web site), regular mail or submissions from one of the other sections of the Division of Workers Compensation. Allegations of fraud and abuse are designated as a referral. This referral is reviewed by the Assistant Attorney General to determine if sufficient information is evident to warrant an investigation. If there is sufficient information, the case is assigned to a Special Investigator. If insufficient information exists, the matter is returned to the complaining party for further information or, if that is not possible, the referral is recorded but no investigation commences.

Types of Fraud

The unit classifies the type of fraud reported as it relates to the fraud and abuse statutes as well as the compliance statutes. Table 4-1 lists the types of fraud, abuse and compliance cases reported to the unit over the past year.

Table 4-1
Number of Fraud, Abuse and Compliance Cases Reported

Type of Fraud, Abuse and Compliance Referrals	Total
Obtaining or denying benefits by making false statements either orally or written: K.S.A. 44-5,120 (d)(4)	56
Failing to confirm benefits to anyone providing treatment to a claimant: K.S.A. 44-5 120(d)(15)	9
Failing to initiate or reinstate compensation when due: K.S.A.44-5,120 (d)(16)	2
Refusing to pay compensation as and when due: K.S.A. 44-5,120 (d)(18)	1
Refusing to pay any order awarding compensation: K.S.A. 44-5,120 (d)(19)	6
Failing to timely file accident reports: K.S.A. 44-557	83
Receiving TTD or PTD benefits while working: K.S.A. 44-5,125 (a)(1)(D)	12
Failing to maintain workers compensation insurance when required: K.S.A. 44-532 (d)	109
All other fraudulent and abusive practices	26

Source: Kansas Division of Workers Compensation

Investigations

The Fraud and Abuse unit has three full-time investigators. These investigators are not law enforcement officers. However, they perform investigative duties almost identical to those performed by sworn law enforcement. The investigation process includes activities such as interviewing witnesses, collecting evidence, forming liaisons with law enforcement groups, as well as special fraud investigation units within the insurance industry, and testifying in administrative and criminal actions.

Once an investigation is complete, the investigator will prepare a summary for the Assistant Attorney General to review. Criminal or administrative action commences if the Assistant Attorney General determines that there is sufficient information to sustain the burden of proof in either a criminal or administrative action.

If the information indicates an insurance company as the alleged fraud violator, that information is referred to the Kansas Insurance Department, which has the authority to bring fraud and/or abusive practice actions against insurance companies.

Prosecution

The unit is authorized to initiate criminal or administrative action against individuals and entities that appear to have committed fraud or abuse of the workers compensation system. The unit has been extremely aggressive in this area. Civil actions are divided into compliance and fraud actions in the table below.

Table 4-2
Number of Cases

Compliance	18
Fraud/Abuse	8
Criminal	0
Total	26

Collections

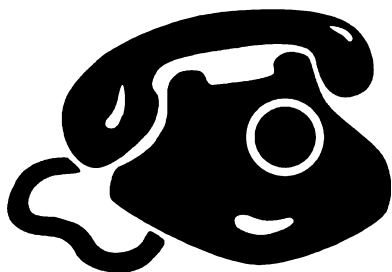
During either a criminal or administrative action, a penalty, fine or restitution is requested, but not necessarily ordered, by the judge or hearing officer. The total amount collected for FY 2004 was \$80,595.05. The unit makes every attempt to collect the fund owed without any assistance. However, in some instances the Legal Services division of the Kansas Department of Labor is used to file a collection action. Once the money is received, by law it must be deposited in the appropriate fund.

Table 4-3
Fraud, Abuse, and Compliance Collections

Fraud and Abuse Fines: K.S.A. 44-5,120 & 44-557	\$11,290.46
Compliance Fines: K.S.A. 44-532	\$68,844.59
Restitution	\$ 460.00
Total	\$80,595.05

Conclusion

The Division of Workers Compensation Fraud and Abuse unit is and will continue aggressively investigating and prosecuting workers compensation violators. If you wish to report an employer failing to comply with the Workers Compensation Act, engaging in an act of fraud, or if you just have questions for the unit, please do not hesitate to contact the division.



FRAUD HOTLINE

1-800-332-0353 24hrs/day
1-785-296-6392 (8am-5pm)



FRAUD E-MAIL ADDRESS

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